

**- FILED -**

STATE OF INDIANA ) MAR 03 2005 IN THE ST. JOSEPH CIRCUIT COURT

) SS:

COUNTY OF ST. JOSEPH )

~~St. Joseph~~ Superior Court

Clerk  
AVC NO. 05-005

IN RE: BRUCE BENDER, individually and )

doing business as BENDER & )

SON CONSTRUCTION )

Respondent. )

MISCELLANEOUS DOCKET

NO. 71027-0503-MI-00017

ASSURANCE OF VOLUNTARY COMPLIANCE

The State of Indiana, by Attorney General Steve Carter and by Deputy Attorney General Roger D. Smith, and the Respondent, Bruce Bender, individually and doing business as Bender & Son Construction, enter into an Assurance of Voluntary Compliance (Assurance), pursuant to Indiana Code §24-5-0.5-7.

Any violation of the terms of this Assurance constitutes prima facie evidence of a deceptive act. This Assurance is entered into without any adjudication of any issue of fact or law, and upon consent of the parties.

The parties agree:

1. Respondent is an individual engaged in business as a home improvement contractor in St. Joseph County, with a principal place of business at 10061 Lanter Court, Osceola, Indiana 46561.
2. The terms of this Assurance apply to and are binding upon Respondent, his employees, agents, representatives, successors, and assigns.
3. Respondent acknowledges the jurisdiction of the Consumer Protection Division of the Office of the Attorney General to investigate matters hereinafter described, pursuant to the authority of Ind. Code §4-6-9-4 and Ind. Code §24-5-0.5-1 et seq.

4. Respondent agrees, pursuant to Ind. Code §24-5-11-10, in every home improvement transaction, to provide a completed home improvement contract to the consumer before it is signed by the consumer. Respondent agrees that the contract must contain at a minimum the following:

- (a) The name of the consumer and the address of the residential property that is the subject of the home improvement;
- (b) The name and address of the home improvement supplier and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed;
- (c) The date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract;
- (d) A reasonably detailed description of the proposed home improvements;
- (e) If the description required by Indiana Code §24-5-11-10(a)(4) does not include the specifications for the home improvement, a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;
- (f) The approximate starting and completion dates of the home improvements;
- (g) A statement of any contingencies that would materially change the approximate completion date;
- (h) The home improvement contract price; and
- (i) Signature lines for the home improvement supplier or the supplier's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or a typed version of that person's name placed directly after or below the signature.

5. Respondent agrees, pursuant to Ind. Code §24-5-11-11, that before the consumer signs the home improvement contract and before the consumer can be required to make a down

payment, the Respondent must have agreed unequivocally by written signature to all of the terms of the home improvement contract.

6. Respondent agrees, pursuant to Ind. Code §24-5-11-12, that Respondent shall give a fully executed copy of the home improvement contract to the consumer immediately after the consumer signs it. The contract must also show the dates the Respondent and each consumer executed the contract.

7. Respondent, in soliciting and/or contracting with consumers, agrees to refrain from conducting any business activity in the State of Indiana unless those activities are in full compliance with the Home Improvement Contracts Act, Ind. Code §24-5-11-1 et seq.

8. Respondent agrees to refrain from conducting any home improvements until he has first obtained all necessary licenses and building permits required by law.

9. Respondent, in soliciting and/or contracting with consumers, agrees to fully comply with the Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-1 et seq.

10. Upon execution of this Assurance, Respondent shall pay consumer restitution in the amount of Two Thousand Dollars (\$2,000.00) to the Office of the Attorney General on behalf Mary Ellen Wells,

11. Upon execution of this Assurance, Respondent shall pay costs in the amount of Three Hundred and 00/100 Dollars (\$300.00) to the Office of the Attorney General.

12. Respondent shall not represent that the Office of the Attorney General approves or endorses Respondent's past or future business practices, or that execution of this Assurance constitutes such approval or endorsement.

13. Respondent shall fully cooperate with the Office of the Attorney General in the resolution of any future written complaints the Consumer Protection Division receives.

14. The Office of the Attorney General shall file this Assurance with the Circuit Court of St. Joseph County. The Court's approval of this Assurance shall not act as a bar to any private right of action.

DATED this 15<sup>th</sup> day of February, 2005.

STATE OF INDIANA

RESPONDENT

STEVE CARTER  
Attorney General of Indiana

BRUCE BENDER, individually and doing  
business as BENDER & SON  
CONSTRUCTION

By: Roger D. Smith  
Roger D. Smith  
Deputy Attorney General  
Atty. No. 23152-49

Bruce Bender  
Bruce Bender

Office of Attorney General  
302 W. Washington, 5th Floor  
Indianapolis, Indiana 46204  
Telephone: (317) 232-4774

APPROVED, this 15<sup>th</sup> day of February, 2005.

[Signature]  
Judge, St. Joseph County Circuit Court